

1 the FCC?

2 A The Federal Communications  
3 Commission.

4 Q Go on.

5 A 1992. We had been trying to get  
6 financing from a gentleman named Dean Manson,  
7 who purported to have contacts with a program  
8 we were trying to consummate, that involved  
9 the purchase of the Hickory, North Carolina  
10 MSA license, and all the rural service area  
11 licenses around that MSA, and Mr. Manson  
12 turned out to be a fraud guy, so we dropped  
13 that, and Mr. Guhl had spent a tremendous  
14 amount of time and effort with that.

15 Q "A fraud guy" meaning someone's  
16 employed by the FBI, or some--

17 A No. He was just a guy that was--

18 Q Just a scarecrow.

19 A He was trying to--you know, you  
20 pay advance fees and he's going to get you  
21 debt financing. Of course he never does.  
22 It's just a scam. So we dropped that and we

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1        couldn't go forward on the purchase of the  
2        licenses. We had, you know, business plan,  
3        the whole nine yards, spent all the time and  
4        money on it.

5                So Guhl decided--he looked really  
6        bad, he was afraid he's going to get fired.  
7        So he's trying to find some other financing.  
8        He goes back to have meetings and he runs, he  
9        goes--runs back in with Gaubert. They try to  
10       get us involved in a bankruptcy fraud  
11       situation where the elder Gaubert is selling  
12       off various assets including a radio station.  
13       I don't have any interest in that. They  
14       dropped that.

15               That was in the early part of  
16       1992. Later on, in 1992, Lonnie Guhl decides  
17       to go back and have some more meetings, and in  
18       July, we were approached by this guy whose  
19       name is Larry Long. He's a confidential  
20       informant and he wants to--this is the guy  
21       supposedly had the investment banking firm and  
22       thing from the year before.

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1                   He reappears. Unbeknownst to me,  
2                   Guhl and Swanson start going and meeting with  
3                   him in Irving, Texas, and they start  
4                   depositing cash in excess of \$10,000 a day.  
5                   They do it in two or three increments.

6                   Q       And where is this money coming  
7                   from?

8                   A       It was coming from the FBI.  
9                   Supposedly was coming from this guy's  
10                  investment banking business and they were  
11                  treating it like he was--they were sort of  
12                  illegal proceeds, or something. And I don't  
13                  know because I wasn't involved in that.

14                  But apparently what happened is  
15                  they deposited money, like \$5000 or \$6000 in  
16                  the morning, and \$6000 in the afternoon. It  
17                  turned out they were caught right away. The  
18                  FBI told them let--told the banks to, you  
19                  know, to continue to allow them to do this,  
20                  and they did it on two occasions in late July  
21                  1992, two occasions in early August 1992.

22                  I was--Guhl got me to go out to a

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1 meeting with these people on August the 10th,  
2 '92. It was all recorded. And the next three  
3 days, I was out of town on business. And on  
4 Friday, they convinced me to go back out there  
5 and have a meeting, and that meeting resulted  
6 in their trying to give me a briefcase with  
7 cash. I turned them down.

8 They managed to--

9 Q Why did you turn them down?

10 A Cause I had no interest in doing  
11 anything like that.

12 Q What specifically was it they were  
13 proposing to you?

14 A They were proposing to invest so  
15 much money in a subsidiary of Express, or some  
16 company that was going to be affiliated with  
17 it, when they were supposedly going to provide  
18 other monies.

19 But as it turns out, the  
20 videotape, the part, the last five minutes,  
21 get--they weren't destroyed, it's just you  
22 can't see anything anymore, and the audio gets

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1 to where you can't hear anything anymore.

2 Q And what would that have showed?

3 A That I turned them down. So based  
4 on Mr. Guhl and Mr. Swanson, they end up--they  
5 pleaded guilty apparently a few months later.

6 Q And what did they plead guilty to?

7 A A violation of the currency  
8 transaction reporting requirements.  
9 Conspiracy. They become Government  
10 informants, and so the Government spends the  
11 next year or two doing everything it can to  
12 put Express out of business.

13 Q But you ultimately plead guilty,  
14 is that correct?

15 A Yes, sir.

16 Q Why did you plead guilty?

17 A Well, I'd never been involved in a  
18 criminal proceeding before and I didn't really  
19 understand what, what I should/shouldn't have  
20 been doing. I didn't hire the right attorney  
21 early enough. Matter of fact, I never hired  
22 the right attorney before the guilty plea. So

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1 I was indicted May 14.

2 Q What specifically was your  
3 indictment for?

4 A The indictment was for the  
5 conspiracy to--actually, the indictment itself  
6 was money laundering. One was conspiracy to  
7 engage in money laundering. The other was  
8 actually they produced a check that they wrote  
9 up after the fact and claimed I'd seen the  
10 check and knew about the check.

11 Q So let me stop you there just for  
12 a second. The monies that you were alleged to  
13 have taken are the monies that you are  
14 maintaining that these two individuals  
15 deposited in excess of \$10,000 a day, and did  
16 you ever ultimately take control of those  
17 monies in any way?

18 A No, sir. Didn't know about it.

19 Q All right. Well, go on. You were  
20 explaining why you pled guilty.

21 A Yes, sir. I got indicted in May,  
22 realized I had the wrong attorney, so I tried

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1 to hire Neal Harwell in Nashville, Tennessee,  
2 which is where I'm from. But there wasn't  
3 enough time and the judge decided that I  
4 wasn't going to be permitted to waive my  
5 speedy--rights to a speedy trial. I wasn't  
6 allowed the time to get other counsel. I  
7 wasn't allowed to--actually, to have enough  
8 time to prepare for trial.

9 The trial was going to begin in  
10 July of 1994, no matter what. There was a  
11 postponement for two weeks because the  
12 Government had--Mr. Hinkle, who was the  
13 Government prosecutor, had another trial he  
14 was finishing up, and July 17 or 18, I was  
15 going to go to trial and I was going to lose,  
16 and I was going to do about seven years in  
17 prison.

18 And at that point in my life, I  
19 had parents who were eighty-seven, -eight, -  
20 nine years old. I couldn't see, you know,  
21 being in prison when they died.

22 So we didn't have access to the

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1 evidence. We were going to have to subpoena.  
2 The Government wasn't going to produce any--

3 Q Why were you convinced at that  
4 point you were being--why were you--

5 A Because I was going to go to trial  
6 with an unprepared lawyer and I didn't have  
7 time to prepare. Actually, I had no time to  
8 prepare. And it was very clear, I wasn't  
9 going to have any kind a chance at this.

10 Q What was the evidence that the  
11 Government--that you knew the Government was  
12 going to put into evidence against you?

13 A In criminal defense terms, it's  
14 basically called the--no offense--the "lying  
15 whore."

16 Q I'm sorry?

17 A "Lying whore witnesses." You get  
18 a bunch a people who pled guilty, who actually  
19 did something, then they especially lying  
20 about me, and they intimidated some of the  
21 other people that worked at Express, some of  
22 the employees. So either I was going to do--

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1       plead guilty and do a year, or a year and a  
2       half in prison, or I was going to lose and do  
3       seven years and try to appeal. I didn't see  
4       that I could do seven years.

5           Q       And you believe they didn't have  
6       any direct evidence of your accepting or  
7       controlling this money?

8           A       Oh, they didn't have any evidence  
9       at all, actually. It didn't make any  
10      difference. I was learning--I learned a  
11      lesson real fast.

12          Q       Okay. Now, there were some other  
13      legal problems that you had around this same  
14      time, is that correct? You had some problems  
15      in state court?

16          A       Not at that time. No, sir. The  
17      other issue involving the SEC, and they were--  
18      they had an informal order of investigation in  
19      '93, became a formal order in '94. But my  
20      situation that we just went over was what I  
21      was paying attention to and what I was  
22      devoting money to.

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1                   And the state situation occurred  
2                   years later. They decided that--actually, it  
3                   was just one person who--Mr. Oman, who's a  
4                   state security--an employee in the Texas State  
5                   Securities Board, Joseph Oman, he decided that  
6                   I hadn't been punished enough, so he went to  
7                   the district attorney's office in Dallas,  
8                   Texas, and pounded and pounded and pounded  
9                   away, so they finally indicted me and Mr.--two  
10                  people that worked with me at the time--one  
11                  was Robert Machem, and the other one was Karen  
12                  Matuszewski.

13                 Q       Now this was what type hearing?

14                 A       This was late 1997.

15                 Q       And this was in relation to  
16                  activities at Express?

17                 A       Yes, sir.

18                 Q       What was that conviction for? Or  
19                  was it a conviction or a plea?

20                 A       A guilty plea. They claimed that  
21                  one of our SMR equity programs that was--  
22                  involved securities fraud, and securities

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1 fraud was omitting to disclose in the offering  
2 documents, one, that various states had  
3 instituted administrative proceedings, state  
4 securities, State of Illinois. We had a state  
5 administrative proceeding and the FBI was  
6 investigating this.

7 Q And the charge was that you had  
8 failed to inform these investors that you were  
9 being investigated by the FBI and other--

10 A And the state security regulatory  
11 authorities. Yes, sir.

12 Q Okay. And what was the outcome of  
13 your guilty plea there? Let me ask you this.  
14 Why did you plead guilty in that case?

15 A Well, Texas has a very unusual  
16 rule, and it says you can't challenge the  
17 sufficiency of an indictment, that you can't  
18 challenge the indictment, at all, prior to  
19 going to trial. So we tried--I hired William  
20 Ravkind as one attorney and Joe Held as  
21 another. Joe Held's a securities attorney in  
22 Dallas. And we filed a motion to dismiss the

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1 indictment for all kinds of legal reasons, and  
2 the court couldn't grant the motion because  
3 under Texas criminal procedure, you have to go  
4 to trial and get a verdict, and then you can  
5 challenge the verdict in terms of the  
6 sufficiency of the indictment. So I was going  
7 to have to go to trial first, and then go  
8 through all that, and then raise that--I  
9 didn't have the money, and I didn't have much  
10 choice. I didn't think I had much choice at  
11 the time. So I pled guilty, got four years  
12 probation, and that's what happened.

13 Q Well, why did your defense focus  
14 on the insufficiency of the indictment?

15 A Well--

16 Q And not the charge?

17 A Basically, under Texas law, what  
18 we were selling was probably not a security.  
19 So you can't engage in securities fraud if you  
20 don't have a underlying security in the first  
21 place.

22 Q Excuse me just a second. And I

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1 see that you would have had at least that  
2 defense. But did you have no other defenses  
3 to the charge?

4 A Well, you can argue, in typical  
5 securities fraud, defenses in terms of  
6 materiality and so forth, but, you know, this  
7 is Dallas, Texas. This is a jury of some  
8 interesting human beings, and all they're  
9 going to know is people lost money, I'm a bad  
10 person, I had a prior criminal conviction, and  
11 I didn't think I had much chance of  
12 prevailing. The conviction rate in these  
13 courts is about 95 or 98, 99 percent.

14 Q Well, you were aware you didn't  
15 have to take the stand in the case?

16 A That didn't sound very appealing  
17 to me.

18 Q Not to take the stand?

19 A No. I was going to have to get up  
20 there and explain.

21 Q But to go to the substance of the  
22 charge, and that is that you hadn't revealed

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1 to investors that you were under investigation  
2 by various organizations, did you have no  
3 defense against that charge? Substantive?

4 A It wasn't disclosed.

5 Q What wasn't disclosed?

6 A The fact that the state of  
7 Illinois had an administrative proceeding--we  
8 did not believe that the proceedings were  
9 actually valid. We thought we were--what we  
10 were doing was perfectly within the law and  
11 within the rules.

12 Q Why didn't you attempt to defend  
13 yourself on that basis?

14 A You know, you're looking at a  
15 situation where, if I had more money, and I  
16 didn't have a prior criminal conviction, I  
17 probably would have.

18 Q Do you remember how many counts  
19 were made against you in the state court  
20 action?

21 A Seven.

22 Q Seven?

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1           A       Seven individuals out of five  
2 hundred had a problem.

3           Q       I'm going to give you a series of  
4 names and tell me whether these individuals  
5 were among those who had made complaints.

6           A       You must think I have a fantastic  
7 memory.

8           Q       Well, all you had to do is say you  
9 don't remember. I told you that at the  
10 beginning.

11                   Robert A. Nelson?

12          A       I would not have a clue.

13          Q       Harry I. Toombs, Jr.?

14          A       Don't know.

15          Q       Dorothy L. Williams?

16          A       Don't know.

17          Q       Jeffrey D. HeLal?

18          A       Don't have a clue.

19          Q       I'm sorry. Donna D. HeLal. Oh,  
20 Donna B. HeLal. No. David L. Chou? Or  
21 "Chow"?

22          A       No. Don't remember.

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1 Q And John D. Malik?

2 A I remember the name but I don't  
3 have any idea whether he's in that group or  
4 not.

5 Q And the people that ultimately  
6 complained against you are people who would  
7 have invested money with Express?

8 A They invested the money. They  
9 invested money and they bought units in a  
10 limited liability company called Dallas Mobile  
11 Continental LLC.

12 Q And do you know what ultimately  
13 happened to their investment? Or what  
14 happened to--

15 A They lost the money.

16 Q They lost the money, and they were  
17 never able to recoup it, to your knowledge?

18 A I paid them about 30 percent of  
19 their money back through making payments when  
20 I was on probation.

21 Q In the federal charges, do you  
22 remember how many counts were against you in

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1 that--

2 A It was a two count indictment, one  
3 count guilty plea.

4 Q And what was the--do you remember  
5 the count that was dropped?

6 A Well, they dropped the indictment  
7 and there was a superseding, you know, guilty  
8 plea, so--

9 Q No. I mean in return for--you  
10 pled guilty to just one count; is that  
11 correct?

12 A The guilty plea was different  
13 from, completely different from the  
14 indictment.

15 Q You mean there was a count that  
16 was not included in the indictment?

17 A Oh, yes.

18 Q We have been going for about an  
19 hour. If you need a break, we're happy to  
20 take one now. If you can keep going, we can  
21 keep going.

22 A No problem.

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1           Q     Do you know--let me ask you this.  
2     I guess we'll start from here. Did there come  
3     a time when you became associated or involved  
4     with Preferred Communications Systems, Inc.?

5           A     Yes.

6           Q     Okay. And can you tell us when  
7     and how you became involved with them.

8           A     Well--

9           Q     And I understand this may be a  
10    long story.

11          A     When I was released from  
12    Leavenworth prison camp, one of the first  
13    things I did, I started working with June  
14    McNally and John McNally at June's house on  
15    4011 Rosa Road in Dallas. I called up Paul  
16    Conrad, who was a marketing representative for  
17    Express. He lives in San Juan, Puerto Rico,  
18    and I was inquiring as to the status of the  
19    licensed corporations that we had formed and  
20    that held licenses on the island. Most of  
21    them had a license in San Juan, a license in  
22    Patillas, which would have been relocated to

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1 Ponce, and one at Mayaguez.

2 And subsequent to--there were ten  
3 licensed corporations originally, and five  
4 more were formed, and the five had various  
5 licenses. And I was inquiring as to the  
6 status of the licensed corporations and what  
7 was going on.

8 And Mr. Conrad informed me that  
9 there'd been a takeover, and he, his partner,  
10 whose name was Edward J. Nemeth, who was a  
11 broker in the Miramar marketing offices,  
12 associated with Express--Unique Communications  
13 Concepts, Sacramento, California. Mr. Nemeth  
14 had decided to appropriate the opportunity, if  
15 you will, and there was Telecellular, Inc.,  
16 which was a company that was formed in  
17 December 1993, there were five directors,  
18 myself, Karen Matuszewski, Frank Owens, Paul  
19 Conrad and then Nemeth.

20 And in 1994, Mr. Nemeth and Mr.  
21 Conrad had gone out and signed up all the  
22 licensed corporations to various agreements.

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1           Q     Can you tell us what the company  
2 was that you'd formed at that point.

3           A     Telecellular, Inc.

4           Q     That's Telecellular?    Okay.    Go  
5 ahead.   I'm sorry to interrupt.

6           Q     December 1993.   They went out and  
7 signed up all the licensed corporations to a  
8 joint venture called Telecellular, and as  
9 directors of Telecellular, Inc., Mr. Conrad  
10 and Mr. Nemath were directors--well, this is  
11 about the time I was having my legal  
12 difficulties.

13                     Subsequent to that, Mr. Nemath  
14 persuaded Mr. Conrad, and others, to create a  
15 second company called Telecellular Puerto  
16 Rico, Inc., which ended up being--there was  
17 one formed in Puerto Rico in September of  
18 1994.   They abandoned that company and formed  
19 a Telecellular Puerto Rico in Delaware in  
20 February 1995.

21                     So we're going to have one set of  
22 documents, and then we're going to ignore that

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1 one set of documents and we're going to create  
2 a second company that had a second set of  
3 documents. We're just going to ignore the  
4 first company and everything.

5 Q The first one being Telecellular  
6 or--

7 A First one being Telecellular, Inc.

8 Q Okay.

9 A And we're going to ignore that  
10 first joint venture because it involved me.  
11 And I had an agreement with Mr. Nemath and Mr.  
12 Conrad as to who was going to own what in the  
13 various licensed corporations, and I was  
14 supposed to own one of them. Mr. Nemath had  
15 conveniently forgot this.

16 So in May 1995, after Telecellular  
17 Puerto Rico, Inc. has been formed, and after  
18 Telecellular, the joint venture at the time,  
19 the only joint venture that existed, following  
20 an extended implementation authority request  
21 for the Federal Communications Commission--

22 Q How many licenses were involved at

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1       that point?

2           A       Oh, man! About thirty.

3           Q       All in Puerto Rico?

4           A       Yes.

5           Q       Okay. Go on. I'm sorry.

6           A       Filed same implementation  
7 authority request. Nemath had hired Richard  
8 Myers's law firm here now, and they file an  
9 EIA for the joint venture. But the way it  
10 works of course is each--what's going to get  
11 the extent implementation authority is not  
12 Telecellular joint venture. It's going to be  
13 the call signs that were part and party to it  
14 of course, which are owned by the various  
15 licensed corporations who were clients of  
16 Express.

17                   So the EIA got filed in May '94,  
18 was granted in February '95, about the time  
19 that Telecellular Puerto Rico got formed in  
20 Delaware. The second company. In May '95  
21 they have a meeting, and Conrad and Nemath  
22 convince all the directors of all the licensed

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1 corporations to sign a second set of documents  
2 that conflict with the first set of documents.  
3 That we're going to pretend like--they pretend  
4 like the first set of documents doesn't exist.

5 So that's the situation when I'm  
6 released from Leavenworth prison camp, and I  
7 call up Mr. Conrad. Says okay, I tell you  
8 what we're going to do, Paul. I'm going to  
9 forgive you for trying to cheat me, and if  
10 you--are you going to be willing to work with  
11 me? He says yes--yes. I was bad. I did bad.  
12 He got paid \$100,000 and he already spent the  
13 money, so he was--

14 Q By who? Who'd he get paid by?

15 A Mr. Nemath for--

16 Q To form the second corporation?

17 A Yes. That was his--that was sort  
18 of the price that Ed, Ed and--Roger--that was  
19 the time Roger Crane and David Baird, a number  
20 of other people, they paid Paul to do this.  
21 So Paul was not exactly blameless. So Paul  
22 decides he's going to work with Telecellular,

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1 Inc. and me, and so we start sending out  
2 letters and sending out agreements for people  
3 to sign, and trying to recover the situation.

4 Mr. Nemath decides that his best  
5 defense is to contact my U.S. probation  
6 officer and put me back in prison, which is  
7 what he tries to do for the next several  
8 years.

9 Q His defense against what?

10 A My pointing out that perhaps Mr.  
11 Nemath and Mr. Crane and Mr. Baird were  
12 committing fraud, and the people in Puerto  
13 Rico had agreements with Telecellular, Inc. in  
14 the first place, and in April 1996  
15 Telecellular, Inc. and the licensed  
16 corporations filed a law suit in Puerto Rico  
17 against Telecellular Puerto Rico, Inc. and Mr.  
18 Nemath and Mr. Crane and so forth.

19 Q And that was orchestrated by you?

20 A Oh, absolutely. Yes, sir.

21 Q Okay. Go on. I'm sorry.

22 A Quite all right. I'm not allowed

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1 to go down to Puerto Rico and participate in  
2 litigation. I'm not allowed to do anything by  
3 my U.S. probation officer or by the judge, the  
4 same judge who sentenced me back in January  
5 1995. So we run out of money, eventually.  
6 The litigation goes on for years. It goes up  
7 to the Puerto Rico Supreme Court, at least  
8 once or maybe twice. They get the Federal  
9 Communications Commission involved, which ends  
10 up transferring the licenses of three of the  
11 licensed corporations to Telecellular Puerto  
12 Rico, Inc., pursuant to a court order from a  
13 judge who never saw me. I never participate  
14 in litigation.

15 This went on for years and years  
16 and years.

17 Q This is in 1996?

18 A 1996, 1997, 1998, 1999.

19 Q And do you know what the action  
20 was that the court even requested or initiated  
21 with the FCC to begin a license transfer?

22 A The court came out with an order

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